



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2020-0196]**

#### **Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Bendix Commercial Vehicle Systems, LLC**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final disposition; grant of exemption.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant the application of Bendix Commercial Vehicle Systems, LLC (Bendix) for a limited five-year exemption to allow its Bendix Advance Driver Assistance Systems (ADAS) technology to be mounted lower in the windshield on commercial motor vehicles (CMV) than is currently permitted. The Agency has determined that lower placement of the ADAS technology would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety provided by the regulation.

**DATES:** This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and expires [INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. José R. Cestero, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC, 20590-0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to [www.regulations.gov](https://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West

Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations. The online Federal document management system is available 24 hours a day, 365 days a year. The docket number is listed at the beginning of this notice.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### **Bendix's Application for Exemption**

Bendix applied for an exemption from 49 CFR 393.60(e)(1) to allow its ADAS technology to be mounted lower in the windshield than is currently permitted by the

Agency's regulations to optimize the functionality of the technology system. A copy of the application is included in the docket referenced at the beginning of this notice.

In its application, Bendix states that the functionality of its ADAS technology now includes the ability to provide incident management systems, performance or behavior management systems, lane departure warning systems, forward collision warning or mitigation systems, and active cruise control systems. Bendix notes that it piloted the devices' functionality, and found that there was no obstruction to the driver's normal sightlines to the road ahead, highway signs and signals, or any mirrors.

The technology housing is approximately 142 mm (5.6 inches) tall by 138 mm (5.4 inches) wide, and will be mounted in the approximate center of the windshield with the bottom edge of the housing approximately 204 mm (about 8 inches) below the upper edge of the area swept by the windshield wipers. The technology will be mounted outside the driver's normal sight lines to the road ahead, signs, signals, and mirrors. This location will allow for optimal functionality of the safety features supported by the ADAS technology.

Without the proposed exemption, Bendix states that its clients (1) will not be able to install these devices in an optimal location on the windshield to maximize the effectiveness of the ADAS safety features, and (2) could be fined for violating current regulations. The exemption would apply to all CMVs equipped with Bendix ADAS technology mounted on the windshield. Bendix believes that mounting the ADAS technology system as described will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

## **Comments**

FMCSA published a notice of the application in the **Federal Register** on December 01, 2020, and asked for public comment (85 FR 77336). The Agency received one comment from the American Trucking Associations (ATA). The ATA supported the

exemption application, noting that the Bendix ADAS technology is designed to provide safety features such as: forward collision warnings, following distance warnings, and lane departure warnings. ATA argues that ADAS can help thousands of commercial motor vehicle drivers to safely traverse U.S. highways.

### **FMCSA Decision**

FMCSA has evaluated the Bendix exemption application. The ADAS technology system housing is approximately 5.6 inches tall, and is mounted near the top of the center of the windshield, with the bottom of the housing located about 8 inches below the top of the area swept by the windshield wipers. The housing needs to be mounted in this location for optimal functionality of the ADAS system. The desired optimal functionality and the relative size of the system precludes mounting it (1) higher in the windshield, and (2) within 4 inches from the top of the area swept by the windshield wipers to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow placement of the ADAS technology lower than currently permitted by Agency regulations will likely provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the information available, there is no indication that the ADAS technology would obstruct drivers' views of the roadway, highway signs and signals, and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver and any impairment of available sight lines would be minimal; and (3) the mounting location where the bottom of the ADAS technology housing will not exceed 8 inches below the upper edge of the area swept by the windshield wipers outside the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors, will be reasonable and enforceable at roadside. In addition, the Agency believes

the use of the ADAS technology by fleets is likely to improve the overall level of safety for the motoring public.

This action is consistent with the following previously issued Agency actions permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road, and highway signs and signals: Netradyne, Inc. 85 FR 82575 (Dec 18, 2020), J.J. Keller & Associates, Inc. 85 FR 75106 (November 24, 2020), Samsara Networks, Inc. 85 FR 68409 (Oct. 28, 2020), Nauto Inc. 85 FR 64220 (Oct. 9, 2020), Lytx Inc. 85 FR 30121 (May 21, 2020), and Navistar Inc. 84 FR 64952 (Nov. 25, 2019). FMCSA is unaware of any evidence showing that installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

#### **Terms and Conditions for the Exemption**

The Agency hereby grants the exemption for a 5-year period, beginning **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and ending **[INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with Bendix ADAS technology in the approximate center of the top of the windshield and such that the bottom edge of the technology housing is approximately 8 inches below the upper edge of the area swept by the windshield wipers, outside of the driver's and passenger's normal sight lines to the road ahead, highway signs and signals, and all mirrors. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating CMVs equipped with Bendix's ADAS technology are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

### **Preemption**

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

**Meera Catherine Joshi,**

*Acting Administrator.*

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